

REMARKS

Applicants acknowledge receipt of the final Office action dated May 16, 2007, and the Advisory Action dated July 27, 2007. Claims 1, 3, 4, 6, 8-12, 14-28, and 30-35 were pending in the application, of which claims 14-16, 18-28, 30-33 and 35 were previously withdrawn. Claims 2, 5, 7, 13, and 29 were previously cancelled. By this paper, claim 1 is amended; claims 11 and 30-33 are cancelled without prejudice to or disclaimer of the subject matter contained therein; and claims 36-42 are added. Upon entry of this Amendment, claims 1, 3, 4, 6, 8-10, 12, 14-28, and 34-42 will be pending in the application. Claims 1, 3, 4, 6, 8-10, 12, 17, 34, and 36-42 are presented for further examination. Applicants request rejoinder of withdrawn claims 14-16, 18-28, and 35 if generic claim 1 from which they depend is found allowable.

I. Claim Rejections: 35 U.S.C. § 102

Claims 1, 3, 4, 6, 8-10, 12, 17 and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Killion* (U.S. 6,876,749). Applicants request reconsideration and withdrawal of these rejections for at least the following reasons.

Applicants' claim 1, as amended herein, is generally directed toward a microphone assembly comprising a casing for mounting in an electronic communication device, and one or more sound inlet ports. Within the casing are one or more microphones and one or more controlling devices that can be operated by a user for selectively controlling the operation of the assembly. The one or more sound inlet ports, the one or more microphones, and the one or more controlling devices can be combined to form an integrated microphone assembly. The controlling device forms part of the one or more sound inlet ports and is a switch selected from the group consisting of a push button, a tragus responsive switch, and a turning knob. The controlling device also includes channels for allowing sound to pass through the sound inlet port to a microphone housing.

As an example embodiment, Figs. 1-3 of Applicants' filed application illustrate a microphone assembly having a microphone housing (1), a sound inlet port (5), and a controlling device corresponding to the sound inlet port (5). The sound inlet port (5) includes a first sound inlet part (6) and a second casing part (8) surrounding at least part of the first sound inlet part (6). The controlling device forms part of the sound inlet port (5) and is located at least partly within the casing part (8) of the sound inlet port (5). Channels (7) formed in the sound inlet part (6) allow sound to pass through

the sound inlet port (5), through the casing part (8) of the sound inlet port (5), and through the controlling device to the microphone housing (1).

Killion discloses a microphone assembly (1) having a sliding actuator switch (10, 75) configured to slide over a microphone housing (3, 35) for covering and uncovering a sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) in the microphone housing (3, 35). The actuator switch (10, 75) is separate from the microphone housing (3, 35) and the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49), and is mounted on the microphone housing (3, 35) to allow it to slide over the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) to change the directional acoustic properties of the microphone assembly (1). See, *Killion*, col. 5, lines 45-46.

Killion does not disclose each and every feature of Applicants' amended claim 1. For example, *Killion* does not disclose, at the least, that a controlling device is a switch that forms part of one or more sound inlet ports; that the controlling device is located within a casing; and that the controlling device includes channels for allowing sound to pass through the sound inlet port (and thus through the controlling device and the casing) to a microphone housing.

The final Office action correlates *Killion's* actuator switch (10, 75) to a controlling device, and *Killion's* housing (3, 35) to a casing. But *Killion's* actuator switch (10, 75) is not located within the housing (3, 35); and *Killion's* actuator switch (10, 75) does not form any part of the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) that is located in the housing (3, 35). Moreover, *Killion's* actuator switch (10, 75) does not include channels that allow sound to pass through the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) to a microphone housing. At most, *Killion's* actuator switch (10, 75) includes only a screen 77, 79. *Killion*, col. 5, lines 45-52.

In addition, a person skilled in the art would not consider modifying the sliding actuator switch (10, 75) of *Killion* to form a part of the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49). As previously stated, *Killion's* actuator switch (10, 75) is disclosed as separate from the housing (3, 35) and inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) located in the housing (3, 35). Thus, any modification to make the sliding actuator switch (10, 75) form a part of the sound inlet port/tube (e.g., 7, 9, 11, 13, 43, 45, 47, 49) would require substantial and non-obvious constructional/structural changes to the housing (3, 35).

For at least the foregoing reasons, claim 1 is submitted as patentable over *Killion* and the other cited references. Pending claims 3, 4, 6, 8-10, 12, 17, and 34 depend from claim 1 and, accordingly, are submitted as patentable for at least the same reasons as set forth above for claim 1. In addition, claims 3, 4, 6, 8-10, 12, 17, and 34 are believed to be further patentably distinguishable because the cited references do not disclose, teach, or suggest the additional features required by them in combination with the other features recited in independent claim 1 from which they depend.

II. Claim Rejections: 35 U.S.C. § 103

Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being obvious and unpatentable over *Killion* (U.S. 6,876,749). Claim 11 is cancelled by this amendment. Claim 12 depends indirectly from amended claim 1, which, as stated above, is submitted as patentable over the cited references. Claim 12 is therefore submitted as patentable for at least the same reasons as set forth above for claim 1 from which it depends. In addition, claim 12 is believed to be further patentably distinguishable because the cited references do not disclose, teach, or suggest the additional features required by it in combination with the other features recited in independent claim 1 from which it depends.

III. New Claims 36-42

New claims 36-42 are supported by the application as originally filed. No new matter is introduced by the addition of these claims.

New independent claim 36 is generally directed toward a microphone assembly for mounting in an electronic communication device. The microphone assembly generally comprises a microphone housing and a sound inlet port for passing sound to the microphone housing. The sound inlet port includes a controlling device forming at least part of the sound inlet port. The controlling device is operable by a user for selectively controlling operation of the microphone assembly. Applicants submit that new claim 36 is patentably distinguishable over the cited references because the cited references do not anticipate or make obvious the features thereof.

Claims 37-42 depend from claim 36 either directly or indirectly. Claim 37 depends from claim 36 and recites that the controlling device is disposed at least partly within the sound inlet port. Claim 38 depends from claim 36 and recites that the controlling device includes a first part and a second part, and that the first part of

the controlling device is movable relative to both the second part of the controlling device and the microphone housing. Claim 39 depends from claim 38 and further recites that the first part of the controlling device includes channels for allowing sound to pass through the sound inlet port to the microphone housing. Claim 40 depends from claim 39 and further recites that the first part of the controlling device includes a push button.

Claim 41 depends from claim 36 and recites that the controlling device includes channels that extend at least partly into the sound inlet port for allowing sound to pass through the sound inlet port to the microphone housing. Claim 42 depends from claim 36 and recites that the microphone housing includes an outer surface and an inlet formed in the outer surface, and that the sound inlet port is disposed adjacent the outer surface of the microphone housing generally over the inlet for passing sound to the microphone housing.

Applicant submits claims 37-42 as patentable because of their dependence from independent claim 36. In addition, claims 37-42 are believed to be patentably distinguishable over the cited references because the cited references do not anticipate or make obvious the additional features of these claims (in combination with features recited in the claims from which they depend).

IV. Conclusion

In view of the above remarks and amendments, Applicants respectfully submit that each of the Office action rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

Applicant hereby petitions under the provisions of 37 C.F.R. § 1.136(a) for an extension of time in which to respond to the outstanding Office Action and includes a fee as set forth in 37 C.F.R. § 1.17(a) with this response for such extension of time.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. **08-0750** for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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